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LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th November, 1957:

BILL No. 84 OF 1957

A Bill further to amend the Capital Issues (Control) Act, 1947.

Be it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Capital Issues (Control) Amendment Act, 1957. Short title.

29 of 1947. 5 2. In the Capital Issues (Control) Act, 1947 (hereinafter referred to as the principal Act), for section 2, the following section shall be substituted, namely:— Substitution of new section for section 2.

1 of 1956. 10 2. (1) In this Act, unless the context otherwise requires,— Definitions and interpretation.

(a) “company” means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;

15 (b) “issue of capital” means the issuing or creation of any securities whether for cash or otherwise, and includes the capitalisation of profits or reserves for the purpose of converting partly paid-up shares into fully paid-up shares or increasing the par value of shares already issued;

(c) “private company” means a private company as defined in section 3 of the Companies Act, 1956;

(d) "prospectus" means any prospectus, notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a company;

(e) "securities" means any of the following instruments 5 issued or to be issued, or created or to be created, by or for the benefit of a company, namely:—

(i) shares, stocks and bonds;

(ii) debentures;

(iii) mortgage deeds, instruments of pawn, pledge 10 or hypothecation and any other instruments, creating or evidencing a charge or lien on the assets of the company; and

(iv) instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or 15 entered into jointly with a third party;

(f) "States" means the territories of India to which this Act extends.

(2) Any reference in this Act to offering securities to the public shall be construed as including a reference to offering 20 them to any section of the public, whether selected as members, debenture-holders or holders of any other securities of the company concerned or as clients of the person issuing any prospectus in relation to such securities, or selected in any other manner:

Provided that the foregoing provisions shall not be taken as 25 requiring any offer to be treated as made to the public if it can properly be regarded, in all the circumstances, as not being calculated to result directly or indirectly in the securities becoming available for the subscription or purchase by persons other than those receiving the offer, or otherwise as being a domestic 30 concern of the persons making or receiving it.'

Amendment 3. In section 3 of the principal Act, after sub-section (5), the of section 3. following sub-sections shall be inserted, namely:—

"(6) The Central Government may by order at any time—

(a) revoke the consent or recognition accorded under 35 any of the provisions of this section; or

(b) where such consent or recognition has been qualified with any conditions, vary all or any of those conditions:

5 Provided that before an order under this sub-section is made the company concerned shall be given a reasonable opportunity of showing cause why such order should not be made.

10 (7) Where an order has been made under sub-section (6), the Central Government shall, upon the request of the company concerned, communicate to it in writing the reasons for such order.”.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 4

15 “4. (1) No person shall circulate any offer, being a public offer, in the States for the subscription, or purchase of any securities unless consent or recognition has been accorded by the Central Government under this Act to the issue or creation of such securities and a statement has been made to that effect in the offer.

20 (2) No company shall circulate any offer, being an offer to existing holders of the securities of that company or to existing holders of the securities of any other company specified in the offer, in the States for the subscription or purchase of any securities of such company unless recognition has been accorded by the Central Government under this Act to the issue or creation of such securities and a statement has been made to that effect in the offer.

25 (3) No person shall without the consent of the Central Government circulate any offer, being a public offer, in the States for the sale of any securities issued or created with the consent or recognition of the Central Government if such issue or creation was made by a private company or if the order according consent or recognition contained a condition that the securities should be privately subscribed.”

30 5. In section 6 of the principal Act, in sub-section (2), after the word and figure “section 4” in both the places where they occur, the words and figure “or section 5” shall be inserted.

Amendment
of section 6.

Substitution
of new
section for
section 7.

Power to
call for in-
formation.

6. For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. Any officer authorised in this behalf by the Central Government may, for the purpose of inquiring into the correctness of any statement made in an application for consent or recognition to an issue of capital or for the purpose of ascertaining whether or not the requirements of any condition attached to an order according such consent or recognition have been complied with or for the purpose of obtaining particulars as to the total capital issued or for any other purposes of this Act, require any company or any officer of a company to submit and furnish to him within such time as may be specified in the requisition, such accounts, books or other documents and such information as he may reasonably think necessary.”.

Amendment
of section 8. 7. In section 8 of the principal Act, after the words “issue of capital”, the words “or in connection with any of the other provisions of this Act”, shall be inserted.

Amendment
of section 12. 8. Section 12 of the principal Act shall be re-numbered as sub-section (1) of that section and after the said sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”.

STATEMENT OF OBJECTS AND REASONS

The Capital Issues (Control) Act, 1947, does not specify that capitalisation of reserves for the purpose of crediting partly paid shares as fully paid or for increasing the par value of shares already issued, requires prior permission. This Bill, therefore, seeks to clarify the position in this regard.

2. It has been the intention, ever since the inception of control on capital issues, that the execution of mortgages or hypothecations should require prior approval under the Act. As the expression 'other instruments' occurring in section 2 (b) (iii) of the Act is not sufficiently clear and has given room for doubts, it is proposed to put the matter beyond doubt by amplifying the definition of the term 'securities' in section 2(b) so as to cover the transactions mentioned above. Similarly opportunity has now been taken to define the expressions 'company', 'prospectus', etc., which the Act has so far left undefined and also for providing for certain other minor but relevant matters such as taking powers for revoking or varying consent already accorded, condoning offences under section 5 of the Act and prohibition of the giving of false information in connection with any of the provisions of the Act.

T. T. KRISHNAMACHARI.

NEW DELHI;

The 6th September, 1957.

BILL No. 85 OF 1957

A Bill further to amend the Indian Railways Act, 1890.

Be it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title and commencement. 1. (1) This Act may be called the Indian Railways (Amendment) Act, 1957.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 27. 2. In section 27 of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act), for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Any decision given by the Central Government under sub-section (4) shall be final and binding on all parties concerned.”

Amendment of section 27A. 3. In section 27A of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, if in its opinion it is necessary in the public interest so to do, by general or special order, direct any railway administration—

(a) to give special facilities for, or preference to, the transport of any such goods or class of goods consigned to the Central Government or to the Government of any State or of such other goods or class of goods, as may be specified in the order;

(b) to carry any goods or class of goods by such route or routes and at such rates as may be specified in the order.”

Amendment
of section 29.

4. In section 29 of the principal Act,—

(a) in sub-section (1), the words “other than a minor railway” shall be omitted;

5 (b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) The Central Government may, by a like order, fix the rates of any other charges for the whole or any part of a railway and prescribe the conditions in which such rates of charges shall apply.

10 (3) Any complaint that a railway administration is contravening any order issued by the Central Government under sub-section (1) shall be determined by the Central Government.”.

5. Section 32 and section 33 of the principal Act shall be omitted. Omission of sections 32 and 33.

15 6. In section 34 of the principal Act, for sub-section (2) and sub-section (3), the following sub-sections shall be substituted, namely:— Amendment of section 34.

“(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

20 (3) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is, or has been, a Judge of the Supreme Court or of a High Court and the other two members of the Tribunal shall be chosen from among persons who, in the opinion of the Central Government, have special knowledge of commercial, industrial or economic conditions of the country or of the commercial working of the railways.

30 (4) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be specified in the order of their appointment; and if the Chairman or any other member is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Central Government may appoint another person to act in his place during his absence.

35 (5) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(6) Subject to the provisions of sub-section (4) and sub-section (5), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as the Central Government may, by general or special order, prescribe.

(7) No act or proceedings of the Tribunal shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Tribunal.".⁵

Omission
of section 35.

7. Section 35 of the principal Act shall be omitted.

Amendment
of section
39.

8. In section 39 of the principal Act, the words and brackets "the ¹⁰ State Government (as the case may be)" shall be omitted.

Amendment
of section 41.

9. In section 41 of the principal Act,—

(i) in sub-section (1), for clauses (b) to (e), the following clauses shall be substituted, namely:—

"(b) is charging for the carriage of any commodity ¹⁵ between two stations a rate which is unreasonable, or

(c) is levying any other charge which is unreasonable,";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) In the case of a complaint under clause (b) or clause (c) of sub-section (1) the Tribunal may fix such rate ²⁰ or charge as it considers reasonable:

Provided that the rate to be fixed under clause (b) of sub-section (1) shall be within the limit of the maximum and minimum rates fixed by the Central Government under ²⁵ sub-section (1) of section 29."

Insertion of
new section
41A.

10. After section 41 of the principal Act, the following section shall be inserted, namely:—

Revision of
orders by
Tribunal.

"41A. Where a railway administration, bound by an order of the Tribunal, considers that since the order was made there has been a material change in the circumstances on which it ³⁰ was based, the railway administration may, after the expiry of one year from the date of the order, make an application to the Tribunal for revision of the order and the Tribunal may, after making due inquiry into the matter in accordance with the provisions of this Chapter, vary or revoke the order."³⁵

- 11.** For section 42 of the principal Act, the following section shall be substituted, namely:—
- “42. The Central Government alone shall have power—
- (a) to classify or re-classify any commodity;
- 5 (b) to increase or reduce the level of class rates and other charges.”.
- 12.** Section 43 of the principal Act shall be omitted.
- 13.** In section 44 of the principal Act, in sub-section (2),—
- (i) clauses (a) and (b) shall be omitted;
- 10 (ii) in clause (f), the words “or as assessors” shall be omitted.
- 14.** For section 45 of the principal Act, the following section shall be substituted, namely:—
- “45. (1) Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of—
- (a) classification or re-classification of any commodity;
 - (b) fixation of wharfage and demurrage charges (including conditions attached to such charges);
 - 20 (c) scales of charges by a railway administration for the carriage of passengers and their luggage, parcels, military traffic and traffic in railway materials and stores.
- (2) Notwithstanding anything contained in sub-section (1), the Central Government may make a reference to the Tribunal in respect of any of the matters specified in that sub-section and where any such reference is made in respect of any matter, the Tribunal shall make an inquiry into that matter and submit its report thereon to the Central Government.
- 25 (3) On receipt of a report under sub-section (2), the Central Government may take such action as it considers suitable in respect of the matters dealt with in the report.”.
- 15.** In section 46 of the principal Act,—
- (a) in clause (ii), for the words “or reduce”, the words “reduce or cancel” shall be substituted;

Substitution of new section for section 42.

Power to classify or re-classify commodities or to alter rates.

Omission of section 43.

Amendment of section 44.

Substitution of new section for section 45.

Bar of jurisdiction of the Tribunal.

Amendment of section 46.

(b) clause (iii) shall be omitted.

16. In section 46A of the principal Act, the proviso shall be omitted.

Amendment
of section
46A.

17. In section 46C of the principal Act,—

Amendment
of section
46C.

5 (i) for clause (a), the following clause shall be substituted,
namely:—

10 ‘(a) “classification” means the grouping of commodities into classes (both for small and wagon loads) as duly authorised by the Central Government and notified in the Indian Railway Conference Association’s Goods Tariff in force for the time being for the purpose of determining the rate to be charged;’;

(ii) clause (f) shall be omitted;

15 (iii) after clause (g), the following clause shall be inserted,
namely:—

‘(b) “wharfage” means the charge levied on goods for not removing them from the railway premises after the expiry of the free time allowed for such removal.’.

18. If, immediately before the commencement of this Act, there is pending any proceeding before the Railway Rates Tribunal constituted under the Indian Railways Act, 1890, as in force before such commencement, the proceeding shall stand transferred to the Railway Rates Tribunal constituted after such commencement (hereinafter referred to as the new Tribunal) and the new Tribunal shall decide and dispose of that proceeding in accordance with the provisions of the said Act as in force after such commencement; and for the removal of doubts, it is hereby declared that the proceeding, in so far as it relates to any complaint in respect of which the new Tribunal has no jurisdiction, shall abate.

STATEMENT OF OBJECTS AND REASONS

There has been a public feeling that the Railway Rates Tribunal as now functioning has tended to be too formal and legalistic in its approach and that proceedings before it have been unduly prolonged and expensive. The Railway Freight Structure Enquiry Committee, which was set up in the year 1955, was, therefore, asked to examine what changes were needed in the existing constitution, jurisdiction and rules of procedure of the Railway Rates Tribunal, so that the Tribunal might be a more expeditious instrument for adjudication of railway freight matters at a reasonable cost to the litigant. The recommendations made by the Committee relating to this matter have been examined and it is proposed to suitably amend the Indian Railways Act, 1890, in regard to the constitution and jurisdiction of the Tribunal. The present Bill seeks to achieve this object.

2. This Bill also seeks to remove certain lacunae and defects in the provisions of Chapter V of the Indian Railways Act that have come to notice in the working of the Act.

JAGJIVAN RAM.

NEW DELHI;

The 13th November, 1957.

BILL *No. 86 OF 1957

A Bill further to amend the Central Excises and Salt Act, 1944.

Be it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Central Excises and Salt (Amendment) Act, 1957.
2. In sub-section (2) of section 37 of the Central Excises and Salt Act, 1944 (hereinafter referred to as the principal Act), in clause (xvi), the proviso shall be omitted.
3. In Item No. 12 of the First Schedule to the principal Act, in Explanation II, after rule (b), the following rule shall be inserted, namely:—

“(bb) In the case of fabrics manufactured from cotton and other yarns, the other yarns shall, for the aforesaid purpose, be deemed to be cotton yarn.”.

*The President has, in pursuance of clause (1) of article 117 of the Constitution of India recommended to Lok Sabha, the introduction of the Bill.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to amend clause (*xvi*) of sub-section (2) of section 37, and item No. 12 of the First Schedule of the Central Excises and Salt Act, 1944.

2. Clause (*xvi*) referred to above specifically lays down the amounts of rebate to be granted of the duty paid on steel ingots or articles of iron or steel manufactured from such ingots, on export out of India. These amounts are related to the excise duty which was levied in 1944 when the Central Excises and Salt Act was passed, namely, Rs. 4/- per ton. In the Finance (No. 2) Act, 1957, the excise duty on steel ingots has been raised to Rs. 40/- per ton. It will, therefore, be necessary to raise the amounts of rebate. In respect of all other excisable goods, the amounts of rebate have not been specified in the Act but are regulated by the rules framed under the Act. There being no special advantage in regulating the quantum of rebates by the Act when the rules provide for the same and with a view to eliminate the necessity of amending the clause every time the rate of duty is altered, it is proposed to delete the proviso in the clause.

3. The amendment to *Explanation II* of item No. 12 of the First Schedule seeks to remove doubts regarding the basis for determining the average count in respect of yarn other than cotton yarn used in the manufacture of mixed cotton fabrics and to provide for an uniform basis.

T. T. KRISHNAMACHARI,

NEW DELHI;

The 19th November, 1957.

M. N. KAUL,

Secretary.

